IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PETITION NO.1079 OF 2005

The Divisional Manager
Forest Development Corporation
Ltd., Nasik & Ors. ... Petitioners

V/s.

Shri Hari Arjun Gavit ... Respondent

Mr.M.S. Karnik for Petitioner

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **MARCH 29, 2005**

P.C.:

. This Petition has been filed against the order of the Industrial Court which directs the petitioner to cease and desist from continuing to deprive the workman of the benefits attached to permanency. According to the workman, he has completed 240 days in service but was continued without being made permanent for over a period of several years. It is for this reason that the workman filed a Complaint under Items 5, 6, 9 and 10 of Schedule IV of the MRTU & PULP Act.

2. Mr.Karnik, learned Advocate appearing for the Petitioner, vehemently submits that unless there is a finding that the employer had continued the workman or a temporary basis with a view to deprive him of permanent

status, there can be no unfair labour practice. He also submits that there are no posts sanctioned for making the workman permanent in service.

3. The mere fact that the workman had worked for over a period of several years without being accorded a permanent status would, in my view indicate that he had not been granted that status with a view to deprive him of the benefits of permanency. The fact that the workman had completed 240 days and had been continued as a temporary workman at least from 1.1.1999 is not denied. In these circumstances, the Industrial Court cannot be faulted for concluding that Item 6 of Schedule IV was attracted.

4. Mr.Karnik submits that unless there are sanctioned posts, the benefits of permanency cannot be granted to the workman. This in my view, would defeat the very purpose of the provisions of Item 6 of Schedule IV of the MRTU & PULP Act. Item 6 of Schedule IV stipulates that continuing a workman for years together on a temporary basis is an unfair labour practice. Hence, the finding of the Industrial Court cannot be faulted with.

5. Petition rejected.